87-418

No. .....

Supreme Court, U.S.
FILED
JUL 16 1987
JOSEPH F. SPANIOL, JR.
CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1987

NORA J. McARDLE,

Petitioner,

v.

E.R. SQUIBB & SONS, INC.,

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

NORA J. McARDLE
PETITIONER
PRO SE WITH PROTEST
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EDITOR'S NOTE

THE FOLLOWING PAGES WERE POOR HARD COPY AT THE TIME OF FILMING. IF AND WHEN A BETTER COPY CAN BE OBTAINED, A NEW FICHE WILL BE ISSUED.

QUESTIONS PRESENTED

I. Whether the court erred in denying Petitioner's request on whether the United States Court of Appeals for the Tenth Circuit and the United States District Court have Jurisdiction on Petitioner's Complaint on the safety and long term use of the Progesterones?

II. Whether the Court erred in denying Petitioner's MOTION TO REQUEST A RULING IF THE COURT CAN BE UNBIASED AND FAIR in the view of the fact that the Courts in several states have accepted the Progesterones for Chemical Castration as punishment-treatment for rapist?

III. Whether the Court erred in denying Petitioner's request that the Court not dismiss Petitioner's Complaint on Technicalities, because the issue of the safety of the long

term use of the Progesterones is a good cause involving questions affecting the Welfare of the General Public?

IV. Whether the Court erred in not recognizing that Petitioner did comply with all technicalities as requested by the Court to the best of her abilities , without legal counsel.

V. Whether the Court erred in denying Petitioner her right to subpoenaed her medical records so they may be used as legal evidence in a Court of Law and that the requested Records of Penrose Hospital, Dr. David Blanchett, and Dr. James H. Maxwell be incorporated into Petitioner's Record on Appeal?

VI. Whether the Court erred in not considering that medical records were given to Defendant and Whether the Court erred when it

denied Petitioner's Motion for a Court Order that Hall & Evans acknowledge that Medical Documents were given to them on December 23,1985, and that these Documents be incorporated into the Record on Appeal?

VII. Whether Court erred in not permitting Petitioner to tape record the proceedings of the Pretrial Conference held December 17,1985, when she was not represented by legal counsel. Petitioner asked for a copy of the Court's tapes on December 17,1985. Petitioner received copies of the tapes 2 months later, and four days after the Transcripts had been sent to the Court Appeals.

VIII. Whether the Court erred in permiting Pryor, Carney and Johnson's Representative, Bruce Montoya, to attend and testify at the Pretrial Hearing, on Dec-

ember 17,1985. The Petitioner was not notified until the day after the Pretrial Hearing, that Montoya would represent Dr. James H. Maxwell and that Dr. Maxwell would not respond to the Subpoena or enter my medical records into a Court of Law.

IX. Whether the Courts erred in that Petitioner did not receive Notice of Deposition, dated December 17,1985. Case was dismissed on December 24,1985. Petitioner received a copy of Notice of Deposition from Hall & Evans on January 23,1986?

X. Whether the Court erred in denying Petitioner's MOTION FOR REQUEST FOR CLARIFICATION OF E. R. SQUIBB & SONS "ANSWER TO PETITIONER'S COMPLAINT"?

XI. Whether the Court erred in denying Petitioner's request that Defendants produce Documents and an abstract on the Progester-

ones. And that abstracts be incorporated into Record on Appeal?

XII. Whether the Court erred in permitting a clerk of the Court to compile "Record on Appeal" selectively and against the best Interest of the Petitioner?

XIII. Whether the Courts erred in not including in her Record of Appeal. Motion, filed December 12,1985, into the Record on Appeal until a Motion was made?

XIV. Whether the Court erred in assigning Petitioner's complaint to Calender C?

XV. Whether Petitioner's Constitutional Rights were denied when a lower Court order limited Petitioner's access to the courts and Library to 30 minutes a week?

XVI. During the time of filed Complaint,

did the State Legisture pass laws that had a direct effect on the outcome of Petitioner's Complaint?

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1987

No.....

NORA J. McARDLE,

PETITIONER,

v.

E. R. SQUIBB & SONS, INC.,

RESPONDENTS.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

The petitioner, Nora J. McArdle, respectfully prays that the writ of certiorari issue to review the judgement and opinion of the United States Court of Appeals for the Tenth Circuit entered in this proceeding on December 23, 1986.

JURISDICTION

The judgement of the Court of Appeals was entered December 23,1986. A timely petition for rehearing was denied by the Court of Appeals on April 20,1987.

STATEMENT OF THE CASE

Petitioner received a Court order to accompany her Brief 'with citation to relevant legal authorities". Petitioner begs the Court's understanding, through no fault of her own, she is without legal counsel nor legal expertise. Petitioner has been unable to obtain legal counsel because of the complexity of the malpractice case, the number of doctors involved, delay and passage of time, altered and missing records, age and alleged non-profitable Petitioner, and the fact that the Product Liability of the Progesterones are a political, ecomical, medical and ethical issue. Petitioner has diligently tried to obtain legal

counsel, but a number of attorneys I have a conflict of interest. Dr. James H. Maxwell prescribed the medication Progesterone for Petitioner for 12 years, I believe he is a medical expert for the Dalkon Shield Plaintiffs.

Petitioner had a heart attack August 5, 1980, {myocardial infarction} and sustained considerable heart muscle damage. Petitioner's cardiac enzyme for CPK peaked at 1788 on August 7, 1980 {normal} range is 21-215}. The cardiac isoenzyme that is diagnostic for acute myocardial infarction is CPK-MB, and it was 976 {normal range is 5}. Petitioner's medication in the last 15 years were the Progesterones-Provera, Depo Provera and Delalutin. Medication was given for abnormal bleeding. Delalutin {hydroxyprogesterone} was prescribed by Dr. Maxwell from 1971 to 1983. The Progesterone have been assoc-

iated with cardiovascular complication, cerebrovascular accidents, and cancer. Petitioner contends that Delalutin {hydroxyprogesterone} was the direct and indirect cause of her myocardial infarction and the ensuing heart and physical damage after effects.

The Issue before the United States District Court of Colorado and the Tenth circuit of Appeals is the Product Liability of the Progesterone-Provera, Depo-Provera {medroxyprogesterone}, and Delalutin { hydroxyprogesterones }. The Issue of the safety of the long term use of Progesterone is of concern to the Petitioner, but also to the welfare of the General Public. Irreparable harm will be done to both men and women if the issue of the safety of long term use of these medications are not addressed. The Progesterones have been suggested for:

1. Contraceptive of the Future {Norplant-levongesteral, Depo Provera-medroxyprogesterone Squibb's Delatestryl}
2. Population Control {Depo Provera, Norplant}
3. Chemical Castration {Depo Provera-medroxyprogesterone}
4. PMS premenstrual Syndrome Progesterone supp.}
5. Behavior modication {Jack Anderson's Column, October 12,1983, Colorado Springs Sun}
6. Immune Suppressant {Provera-medroxyprogesterone} has been tried for organ transplants.
7. Anti-miscarriage-Progesterone hormone {Squibb's Delalutin and UpJohn's Depo Provera can cause birth defects {teratogenic}, when given to pregnant wpmen. In 1974, FDA, withdrew approval of Depo Provera for a treatment of miscarriage, when Depo Provera was linked

to increase incidance of birth defects of limbs and heart defects.

8. Possible use of Provera {medroxyprogesterone} to prevent heart attacks, based on the assumption that the testosterones, are responsible for causing heart attacks. The medroxyprogesterone are anti-testosterone.

9. Can the Court be unbiased and non prejudical in a judgement of the safety of the long term use of the Progesterones,when the Courts have accepted the use of Depo Provera {medroxyprogesterone} for Chemical Castration as a punishment-treatment of rapist in several states.

QUESTIONS PRESENTED

1. Whether the Court erred in denying Petitioner's request on whether the United States Court of Appeals for the Tenth Circuit and the United States District Court have Jurisdiction on Petitioner's Complaint

on the safety and long term use of the Progesterones?

Defendant is in error when he state that Petitioner first submitted the question of Jurisdiction on May 23,1986. Petitioner submitted the question of Jurisdiction to the United States District Court for the District of Colorado, on December 17,1985. Petitioner also filed a copy of this Motion with her Notice of Appeal filed January 17, 1986, and again on April 1,1986. The question of the safety of the Progesterones was raised at the Pretrial Hearing on the 17 December,1985, and on Motion filed in District Court on the 23 December,1985, and also on Pro Se Docketing Statement filed on the 18 February 1986. Exhibit A. Jurisdiction December 17,1985.

2. Whether the Court erred in denying Petitioner's Motion to request a ruling if the Court can be unbiased and fair in the

view of the fact that the Courts in several states, have accepted the Progesterones for Chemical Castration as punishment-treatment for a rapist?

If the Courts have jurisdiction in Petitioner's Complaint on the safety and long term use of the Progesterones, then the issue of whether the Courts can be fair and unbiased, in view of the fact that the Courts in several states, have accepted the Progesterones for Chemical Castration as punishment-treatment for rapist.

3. Whether the Court erred in denying Petitioner's request that the Court not dismiss Petitioner's Complaint on Technicalities, because the issue of the safety of the long term use of the Progesterones is good Cause involving questions affecting the Welfare of the General Public?

The issue of the safety of the long term use of Progesterone is of concern

to the Petitioner, but also to the welfare of the General Public. Irreparable harm will be done to both men and women if the issue of the safety of long term use of these medications are not addressed. The Progesterones have been suggested for:

1. Contraceptives of the Future {Norplant-levongesteral, Depo Provera-medroxyprogesterone, Squibb's Delatestryl}
2. Population Control,{Depo Provera, Norplant.}
3. Chemical Castration {Depo Provera-medroxyprogesterone}
4. PMS,premenstrual Syndrome {Progesterone supp.}
5. Behavior modification {Jack Anderson's Column, October 12,1983, Colorado Springs Sun}
6. Immune Suppressant {Provera-medroxyprogesterone} has been tried for organ

transplants.

7. Anti-miscarriage-Progesterone hormone,Squibb's Delalutin ,and UpJohn's Depo Provera can cause birth defects {teratogenic}, when given to pregnant women. In 1974,FDA, withdrew approval of Depo Provera for treatment of miscarriage, when Depo Provera was linked to increase incidence of birth defects of limbs and heart defects.

8. Possible use of Provera {medroxyprogesterone} to prevent heart attacks, based on the assumption that the testosterones are responsible for causing heart attacks. The medroxyprogesterone are anti-testosterone.

9. Can the Court be unbiased and non prejudical in a judgement of the safety of the long term use of the Progesterone, when the Courts have

accepted the use of Depo Provera {medroxyprogesterone} for Chemical Castration as a punishment-treatment of rapist in several states.

4. Whether the Court erred in not recognizing that Petitioner did comply with all technicalities as requested by the Court to the best of her abilities, without legal counsel?

Defendant's attorneys have based their case for dismissal of Petitioner's Complaint on the technicality that the Petitioner did not comply with Court Orders of Discovery.

Petitioner complied with all of the Court's orders to the best of her ability without legal counsel. It is the Defendants' attorneys who had no intention of cooperating with Petitioner on the Discovery Process.

Petitioner made every attempt to

comply with the order for Discovery, and on August 30,1985, made a Motion for Court Order of Records, requesting that a copy of medical records of the Petitioner going back to 1947 be made available to the Petitioner, and to the Defendants. Request was made because records have been altered and some medical records are missing. Court order would ensure that the records would be legal evidence and available to the Court, to the Defendants, and to the Petitioner. Exhibit B. Motion for Request for Court Order of Records, dated 30 August,1985, 2 pages.

In the Order of Dismissal the Defendants' state that the Petitioner failed to comply, but the Petitioner did comply. The Petitioner did respond to the defendants' Motions and to the Court's Orders.

1. Petitioner responded to "Defendants' Request for Documents and First Request for Production of Documents", dated August

30,1985, 2 pages.

2. Petitioner did reply to "E. R. Squibb & Sons, Inc., A First Request for Admission and Interrogatories to Plaintiff" on October 18,1985, 3 pages.

3. Petitioner responded to "E. R. Squibb & Sons First Set of Interrogatories", November 4,1985, 9 pages.

4. As requested by a Court Order "Plaintiff Prosposed Stipulated Plan and Schedule for Discovery" was made, dated November 15,1985. Exhibit D.

5. On November 15,1985, Petitioner also turned in to the Court "Plaintiff's Response to E. R. Squibb & Sons, First Request for Production of Documents from Plaintiff and response to Request for Authorization to Release Medical Records, November 15,1985, 3 pages. Exhibit C.

6. Petitioner's "Motion to Object to E. R. Squibb & Sons, Inc.'s Response to Petitioner's Request to Produce Documents

{Progesterones and Delalutin}. Motion to Request E. R. Squibb & Sons, Inc. for Abstracts of Documents on Progesterone and Delalutin, November 27,1985. Exhibit E.

Petitioner made every effort to comply with the Court and Defendants'requests.

5. Whether the Court erred in denying Petitioner's her right to subpoenaed her medical records so they may be used as legal evidence in a Court of Law, and that the requested Records of Penrose Hospital, Dr. David Blanchett and Dr. James H. Maxwell be incorporated into Petitioner's Record on Appeal?

Petitioner made every attempt to comply with Discovery. In the Pretrial Hearing held on 17 December,1985, Petitioner subpoenaed her Medical Records from Penrose Hospital, so that they would be legal evidence in a Court of Law. The Medical Records would prove that Standard Care was not given; would prove that some

of the records were missing; and would prove that the Medical Records contain untrue Statements. Petitioner also subpoenaed har Medical Records from Dr. David Blanchett, because it was he, who delivered her first child, and shortly after delivery told her she had 3 positive cancer tests. Petitioner also sub poenaed her Medical Records from Dr. James H. Maxwell, because it was he, who prescribed the medication, Progesterone, for her, from 1971 to 1983, for abnormal bleeding, endometrial hyperplasis and to prevent cancer. Petitioner Subpoenaed her Medical Records from Penrose Hospital on December 2,1985. Petitioner sent a Subpoenan to Dr. David Blanchett, November 27,1985, and a Subpoenan to Dr. James H. Maxwell December 2,1985. All subpoena were served by Process Server, 3 December, 1985.

6. Whether the Court erred in not considering that medical records were given to Defendant and whether the Court erred when it denied Petitioner's Motion for a Court Order that Hall & Evans acknowledge that Medical Documents were given to them on December 23,1985, and that these Documents be incorporated into the Record on Appeal?

Petitioner mailed a Motion to the Court, and also had delivered to Hall & Evans ir Colorado Springs, a package containing some Medical Records, The Medical Records delivered explained some of the issue of the safety of the Progesterone Petitioner's Complaint was dismissed or the next day, the 24 December 1985, in an unusual manner. Exhibit F. Motion t Request a Copy of Tape recording taken at the Pretrial Conference on December 17, 1985, dated 23 December,1985, 3 pages.

7. Whether Court erred in not permitting Petitioner to tape record the proceedings of the Pretrial Conference held December 17,1985, when she was not represented by legal counsel?

Petitioner asked for a copy of the Court's tapes on December 17,1985. Petitioner received copies of the tapes 2 months later, and four days after the Transcripts had been sent to the Court of Appeals.

The Court erred in not permitting Petitioner to tape record the proceedings of the Pretrial Conference held December 17,1985, when she was not represented by legal counsel. Petitioner also asked for a copy of the tapes on December 17,1985. She received copies of the tapes 2 months later, and four days after the Transcripts had been sent to the Court of Appeals. Exhibit F. Motion to Request a Copy of Tape Recording, dated 23 December 1985.

8. Whether the Court erred in permitting Pryor, Carney and Johnson's representative, Bruce Montoya, to attend and testify at the Pretrial Hearing on December 17,1985? The Petitioner was not notified until the day after the Pretrial Hearing, that Montoya would represent Dr. James H. Maxwell and that Dr. Maxwell would not respond to the Subpoena or enter my medical records into a Court of Law.

The Court erred in permitting Pryor Carney and Johnson's representative Bruce Montoya, to attend and testify at the Pretrial Hearing, on December 17,1985, in response to my subpoena to Dr. James H. Maxwell. I was not notified until the next day after the hearing, on December 18, 1985, that Bruce Montoya would testify and that Dr. Maxwell would not respond to the subpoena nor enter my medical records in a Court of Law. Bruce Montoya entered

derogatory and untrue statements into the Court record and thereby influenced the Judge's decision in an unflavorable manner against me. Petitioner needed a copy of the tape recordings because Raymond Connell, attorney for the E.R. Squibb and Sons, sent a "Pretrial Order" that Petitioner received on December 21,1985, Saturday, 2:00 p.m. Mr. Connell states that "Dr. Maxwell is not a party to this litigation". What does Mr. Connell mean? It was Dr. James Maxwell that prescribed the medication Progesterone for Petitioner from 1971 to 1983 for abnormal bleeding, endometrial hyperplasia and to prevent cancer. Dr. Maxwell prescribed Provera in 1971, Depo Provera for about six months in 1972, and Squibb's product Delalutin (hydroxyprogesterone) for Petitioner for about ten years from 1972 to 1983. It was for this reason that Petitioner subpoenaed her medical records

from Dr. Maxwell. Petitioner objects to the Court's denial of the subpoenaed records .Subpoena was given to Dr. James H. Maxwell on December 2, 1985, and served by a Process Server. Dr. Maxwell did not himself respond to the Subpoena. Petitioner also intended to ask Dr. Maxwell in Court if he was a Medical Expert for the Dalkon Shield Plaintiffs. This would explain why Petitioner has difficulty in obtaining one of many trial attorney representing Dalkon Shield Plaintiffs to represent the Petitioner. Exhibit F. Motion to Request Copy of Tape Recording, 23 December 1985, 3 pages.

9. Whether the Courts erred in that Petitioner did not receive Notice of Deposition, dated December 19,1985? Case was dismissed on December 24, 1985 Petitioner received a copy of Notice of Deposition from Hall & Evans on January 23,1986.

Petitioner did not receive Notice

of Deposition, dated 19 December 1985. Petitioner was made aware of Deposition by a clerk of the Court on January 14, 1986. Petitioner then check with the Post Office. Petitioner received a copy of notice of Deposition from Hall & Evans on January 23, 1986.

10. Whether the Court erred in denying Petitioner's "Motion for Request for Clarification of E. R. Squibb & Sons Answer to Petitioner's Complaint"?

Petitioner's request for Information and Clarification of E. R. Squibb & Sons Answer to Petitioner's Complaint were denied, dated December 5, 1985, 2 pages. Petitioner asked what does Defendant mean that injuries "were solely caused by matters other than by the use of my product, manufactured by the Defendant".

It is the Defendants, who did not wish to cooperate in the Discovery as

manifested in "Hearing, Status Conference and Pretrial Minute" of October 27, 1985, where in it states that there is a zero prospects of settlement. It is and was the Defendant's Attorney who did not wish to pursue Discovery.

11. Whether the Court erred in denying Petitioner's request that Defendants produce Documents and Abstracts on the Progesterones, and that Abstracts be incorporated into my Record on Appeal?

The Court erred in denying Petitioner's request for Motion to Object to E. R. Squibb & Sons, Inc., Response to Petitioner's First Reqquest to Produce Documents {Progesterones and Delalutin}. Motion to Request E.R. Squibb & Sons, Inc., for Abstracts of Document on Progesterone and Delalutin, dated November 27, 1985, 5 pages, and these abstracts be incorporated in Record on Appeal. The Court

suggested that Petitioner go to New Jersey obtain documents. Petitioner has neither time or money or expertise to obtain requested documents. Since the requested documents involve the welfare of the General Public the requested documents on Progesterone should be made part of Court Record. Exhibit E.

12. Whether the Court erred in permitting a clerk of the Court to compile "Record on Appeal" selectively and against the best Interest of the Petitioner?

Does the Petitioner have equal and fair access to the Court's Justice system when a clerk of the Court prepares and composes the Record on Appeal for the Petitioner and neglects to put in favorable and pertinant information for Petitioner. Petitioner found it necessary to resort to Motion Request that the following Motions be included in Record on Appeal. Motion for

Extension of Time, filed December 12,1985, 31 pages, and MOTION FOR SECOND REQUEST TO COMPEL E. R. SQUIBB & SONS, INC., TO PRODUCE DOCUMENTS ON DELALUTIN (HYDROXY PROGESTERONE) AND OTHER PROGESTERONES, December 12, 1985, 37 pages.

13. Whether the Courts erred in not included in her Record of Appeal, Motions filed December 12,1985 into the Record on Appeal until a Motion was made?

On December 12,1985 Petitioner served 2 Motions to the Court and to the Defendants, that attest to Petitioner good intent to comply with Court Orders. The Petitioner raised the issue of Court Jurisdiction, because the United States District Court of Colorado dismissed my case because of Technicalities, that is, alleged failure to timely comply with Defendants' and Court Orders. These allegations are untrue, as I did comply to the best of my

abilities without legal counsel or expertise. I hereby request that the Tenth Circuit incorporate into Record of Appeal the two Motions filed by Petitioner on December 12, 1985. MOTION FOR EXTENSION OF TIME TO FILE PROPOSED PRETRIAL ORDER, December 12,1985, 31 pages, and MOTION FOR SECOND REQUEST TO COMPEL E. R. SQUIBB & SONS, INC. TO PRODUCE DOCUMENTS ON DELALUTIN {HYDROXYPROGESTERONE} AND OTHER PROGESTERONES, December 12,1985, 31 pages. Exhibits should be found with Records on Appeal .

14. Whether the Court erred in assigning Petitioner's complaint to Calender C?

Petitioner questions why Complaint was assigned to Calender C which is reserved for only minor case, and demonstrates that the Court had prejudged the case. Petitioner would again like to inquire as to why and who assigned Complaint

to Calender C. wherein it states that"it appears that the case be approved for disposition without oral argument". Does this imply that the Court will not address the issue of the safety of long term use of the Progesterone? It would also appear that E. R. Squibb & Sons, Inc., and others have a vested interest in that my Complaint be decided on Technicalities and not on the Issue of the Progesterone.

15.Whether Petitioner's Constitutional Rights were denied when a lower Court Order limited Petitioner's access to the Courts and library to 30 minutes a week?

Petitioner's Constitutional Rights were denied when a lower Court order limited Petitioner's access to the Courts and library to 30 minutes a week.

15. During the time of filed Complaint did the State Legislature pass laws that

had a direct effect on the outcome of Petitioner's Complaint?

During the time of filed Complaint, the Legislature did pass laws that had a direct effect on the Petitioner's Complaint.

CONCLUSION

For the above reasons a Writ of Certiorari should be issued to review the Judgement and opinion of the Tenth Circuit Petion.

Petitioner appeals to the Court that Petitioner be granted a rehearing, trial by jury, complete and accurate medical records, and that further research be done on the Progesterones to ascertain the safety of the long term use of the Progesterone.

Writ of Certiorari was filed and received in a timely manner in the Supreme Court of the United States on July 16,1987. Nine copies were returned and it was suggested that the Petitioner retype her Writ of Certiorari, as is, on proper size paper

and return it to the Supreme Court as soon as possible. In the Writ of Certiorari sent on July 16,1987, Petitioner was not able to include all the Exhibits because of a deadline and limited {30} number of pages allowed. Petitioner requested permission to include the Exhibits left out at that time.

Petitioner has not included Exhibit H because it is a Brief and therefore, request that her Record on Appeal from the Tenth Circuit be forwarded to the Supreme Court.

Petitioner has attempted to comply with all of the Courts Precedures and Orders to the best of her ability.

Petitioner prays that the Court be understanding, concerning her lack of citations and legal expertise.

Petitioner requests that she be permitted to add and amend to the Writ of Certiorari when she is able to obtain legal counsel. It is my belief that Provisions

of the Fourteenth Amendment of the United States Constitution and other Constitutional Rights have been violated.

Petitioner prays for Justice and Vindication.

Exhibits: 49 pages.

Exhibit C. PLAINTIFF'S RESPONSE TO E.R. SQUIBB & SONS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS FROM PLAINTIFF.

2. RESPONSE TO REQUEST FOR AUTHORIZATION TO RELEASE MEDICAL INFORMATION, dated November 15, 1985, 5 pages.

Exhibit F. MOTION TO REQUEST A COPY OF TAPE RECORDING TAKEN AT THE PRETRIAL CONFERENCE ON DECEMBER 17, 1985.

OBJECT TO DEFENDANT'S MOTION TO DISMISS.

OBJECT TO COURT DENIAL OF SUBPOENAED MEDICAL RECORDS.

OBJECT TO DENIAL OF REQUEST FOR E.R. SQUIBB TO PROVIDE DOCUMENT ON DELALUTIN AND PROGESTERONE, dated 23 December 1985,10 pages.

Exhibit E. 1. MOTION TO OBJECT TO E.R. SQUIBB & SONS, INC.'S RESPONSE TO PLAINTIFF'S FIRST REQUEST TO PRODUCE DOCUMENTS (PROGESTERONES AND DELALUTIN). 2. MOTION TO REQUEST E.R. SQUIBB & SONS, INC. FOR ABSTRACTS NOVEMBER 27, 1985,13 pp.

Exhibit A. 1. MOTION FOR AN EXTENSION OF TIME TO COMPLY WITH COURT ORDER GIVEN this Morning. 2. MOTION TO REQUEST IF THE COURT HAS JURISDICTION IN THIS CASE, Dated December 17, 1985, 5 pages.
Exhibit A has been placed in the Appendix.

Exhibit D. PLAINTIFF PROPOSED STIPULATED PLAN AND SCHEDULE FOR DISCOVERY, DATED NOVEMBER 15, 1985,10 pages.
Exhibit D has been placed in the Appendix.

Exhibit B. MOTION FOR REQUEST FOR COURT ORDER OF RECORDS, dated 30 august 1985, 6 ps. Exhibit B has been put in the Appendix.

In order to comply with limited number of allotted pages {65}, Exhibit A,D, and B have been put in the APPendix.

On August 22, 1987, forty copies of my petition were returned by mail. Petitioner was informed that "the Appendix to the Petition which you have typed is not double-spaced as required by Rule 33". Petitioner has had her Petition retyped, and the Appendix has been double-spaced as you requested.

Petitioner prays that her Petition is in the correct form, and prays that the Court will accept her Petition and rectify an Injustice.

Respectfully submitted 10 September 1987.

Nora J. McArdle

Nora J. McArdle
Petitioner
Pro Se With Protest
6802 Galley Road
Colorado Springs, CO 80915
303 596 3340

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLORADO

CIVIL ACTION NO. 85-F-435

NORA J. McARDLE,

Plaintiff,

vs.

E. R. SQUIBB & SONS, INC.,

Defendants.

PLAINTIFF'S RESPONSE TO (I.) E.R. SQUIBB & SONS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS FROM PLAINTIFF

II. RESPONSE TO REQUEST FOR AUTHORIZATION TO RELEASE MEDICAL INFORMATION

COMES NOW the Plaintiff, Nora J. Mc Ardle, Pro Se With Protest, and responds to E. R. Squibb & Sons' First Request For Production of Documents From Plaintiff. Plaintiff would like to state that because I am without benefit of legal counsel, because of the constraints of time, November 15, 1985 deadline, because of an Order

Exhibit C.

limiting my access to the Court, I respectfully request your understanding as I attempt to comply with Requests.

I. REQUEST FOR PRODUCTION

Request 1, 2, and 3 all pertain to Medical. Had requested a Motion For Court Order of Medical Records because medical Records have been altered and some are missing. Plaintiff wishes Medical Records to be legal evidence in a Court of Law. Exhibit A. 2 pages.

II. Plaintiff's Response to Request for Authorization to Release Medical Information is the same as above, namely that Plaintiff would prefer that my Medical Records be legal evidence in a Court of Law. Plaintiff will subpoena Medical Records as soon as possible. Records will be subpoenaed going back to 1947 when progesterone was first prescribed.

I. 4. This is a legal and medical request and I am unable to answer without

Exhibit C.

legal counsel, complete and accurate medical records, and documents about progesterone requested from E.R. Squibb.

5. Plaintiff has not filed an individual income tax return since her marriage.

6 & 7. Plaintiff has been an active registered nurse for about fourteen years. I have served in the United States Air Force for seven years and attained the rank of Captain. I married and had four children. In 1972, I worked part-time as a registered nurse for about a year. I returned to school and obtained a B. S. degree and a Masters degree. My independent research includes work in toothpaste, Coor's beer tab, Saccharin, Yellow Rain antidote, Antioxidant Bisulfites, and Acquired Immune Deficiency Syndrone. Plaintiff has assisted her daughter, Mona, in her research "The Prevention of Aflatoxin {acarcinogen} and Other Mycotoxins

Exhibit C.

{Yellow Rain} with Antioxidants: Ascorbic Acid, Tocopherols, Vitamin A, BHA, Tenox 20, Cinnamon, Sodium Selenite, Bioflavonoids, Superoxide Dismutase and Glutathione." Plaintiff has paid an attorney $1700.00 to file an application for a patent. Plaintiff will provide the Defendant's attorney with the above cited material.

8. Some of the requested literature is available and Plaintiff will provide the Defendants with the requested material.

9. Some of the requested documents are available. Plaintiff will provide the Defendants with the requested material.

Production, inspection and copying of the requested documents shall be at a time and place as may be agreed upon by both parties. Exhibit C.

Exhibit A: MOTION FOR REQUEST FOR ORDER OF RECORDS, DATED AUGUST 30,1985.

Respectfully submitted 15 November,1985.

NORA J. McARDLE

Plaintiff Pro Se
WIth Protest
6802 Galley Road
Colorado Springs, CO 80915
(303) 596 3340

Exhibit C

{ The above numbered and lettered paragraphs correspond to questions asked by the Defendants}

Exhibit C.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
CIVIL ACTION NO. 85-F-835
NORA J. McARDLE,
Plaintiff,
vs.
E.R. SQUIBB & SONS, INC.,
DEFENDANTS.

MOTION TO REQUEST A COPY OF TAPE RECORDING TAKEN AT THE Pretrial CONFERENCE ON DECEMBER 17,1985.
OBJECT TO DEFENDANT'S MOTION TO DISMISS.
OBJECT TO COURT DENIAL OF SUBPOENAED MEDICAL RECORDS.
OBJECT TO DENIAL OF REQUEST FOR E.R.SQUIBB TO PROVIDE DOCUMENT ON DELALUTIN AND PROGESTERONE.

COMES NOW, The Plaintiff, Nora J. McArdle, Pro Se With Protest, and makes a Motion to Request a Copy of the Tape Recording Taken at the Pretrial Conference on December 17, 1985, in Magistrate Donald Abram'S Court.

Exhibit F.

1. On December 12, 1985, Plaintiff turned in two Motions to the Court. Plaintiff then asked Steve Erlich, a clerk of the court and an attorney, that if I were not represented by legal counsel at Pretrial Conference would it be possible for the Court to tape the proceedings. Mr.Erlich suggested I send a request to Judge Finesilver.

2. Plaintiff called ACLU and asked them about tape recording the proceeding. Plaintiff was informed that there is no constitutional right to have proceedings tape, and suggested I get an attorney. Plaintiff informed ACLU that one of the ironies of my situation was that the doctor who prescribed the progesterone for me was, I believe, also the medical expert for the Dalkon Shield attorneys' Plaintiff.

3. On December 17,1985, the Plaintiff went to U.S. District Court for a Pretrial Conference to be held at 8:30 A.M.

Exhibit F.

Plaintiff passed through detection set up, I then went to the Security Guard, Mr. Bowles, and told him I had a tape recorder, but since posted signs prohibited cameras or recorder in court, I would leave my tape recorder with him until I could obtain permission from the Judge to tape the proceedings.

4. Plaintiff was then told that Judge Finesilver would not hold the Pretrial Conference.

5. Plaintiff was then directed to Magistrate Donald Abram's office. I then asked Judge Abram that since I was alone and not represented by legal counsel, could I tape the proceedings at the Pretrial Conference and that I had left my tape recorder with the Security Guard, Mr Bowles. Judge Abram informed me that arrangements had already been made to tape the conference.

6. The Pretrial Hearing was from 8:30 A.M. to about 10.00 a.m. There were about

fifteen people in the room - all hostiles.

7. After the conference, Plaintiff went over to the court reporter, Connie Ward, and asked for a copy of the hearing. Connie Ward told me to call Avery Recording Service and ask for tapes 448B, 449A and 450A.

8. Plaintiff called Mr. Avery and was informed that transcripts of the Pretrial Conference cost $230.00. Plaintiff said she could not afford $230.00 for the transcripts and Plaintiff then asked for copies of the tapes - 448B, 449A and 450A. Mr. Avery said he did not think that was possible.

9. On October 29,1985 Plaintiff had Discovery/ Scheduling Conference. Plaintiff requested transcripts of conference on November 5, 1985. Plaintiff paid $20.00 for eight pages of the original. Plaintiff received copies of the transcripts. Suzanne M. Claar, court reporter, said "originals

Exhibit F.

were filed with Court instead of copies in case of future appeal or other proceedings".

10. Plaintiff is without legal counsel and therefore without equal access to the courts. Plaintiff has tried to obtain legal counsel and has contacted about 75 attorneys from local talent to California specialist. Some of the reasons Plaintiff is unable to obtain legal counsel are:

1. Plaintiff contends that Progesterone {Delalutin} caused her heart attack. The Progesterones are a political issue and they have been suggested as the Contraceptive of the Future, Population Control, Chemical Castration, PMS-premenstrual syndrome and Behavior Modification. Reseach on safety of long term use of Progesterones are needed.

2. The case is old, the plaintiff is old and therefore expendable.

3. High powered attorneys represent the Defendant, whose combined offices

contain about 100 attorneys.

4. Some of my medical records are missing, inaccurate and some have been altered.

5. A number of attorneys I have contacted would appear to have a conflict of interest. Dr. Maxwell prescribed the medication, Progesterones for 12 years for Plaintiff. I believe he is medical expert for the Plaintiff's attorneys for the Dalkon Shield.

11. Plaintiff requests a copy of the tape recording because it was an unusual conference and Plaintiff needs a record of what happened. Plaintiff's request for documents from E.R. Squibb & Sons on Delalutin and Progesterones were denied. Plaintiff subpoenaed her medical records from Penrose Hospital, Dr. David Blanchett and Dr. James Maxwell,so that the records could be used as legal evidence in a Court of Law. Plaintiff request was denied. Plaintiff

Exhibit F.

needs a copy of tape recording to know why and what happened at Pretrial Conference.

12. Plaintiff was not notified before the conference that Bruce Montoya of Pryor, Carney and Johnson would represent Dr. James Maxwell at the hearing. Plaintiff objects to Mr. Montoya's remarks. Mr. Montoya is the same attorney who represents the Colorado Springs Cardiologist in Plaintiff's medical malpractice suite in El Paso County. Mr. Montoya is the same person who states in a Defendant's Combined Motion & Memorandum, dated November 20, 1984, that "On November 9,1984 and again on November 13, 1984. Defendant received a pleading titled 'Amendment to the Complaint' Mrs. McArdle is now attempting to name, in addition to Colorado Springs Cardiologist, P.C., Dr. Richard Moothart, Dr. Dilworth Sellers, Dr John B. Kleiner and Dr. Robert A. Cadigan. An examination of Mrs. McArdle's medical records clearly

Exhibit F.

reveals that four out of the five doctors named in Mrs McArdle's so-called Amendment have never treated her"

First question is how did Mr. Montoya obtain McArdle's medical records; and second question is that if Montoya represented Colorado Springs Cardiologist he does know that it consists of Moothart, Sellers, Kliener and Cadigan; the third question is that his statement they "have never treated her" is not true.

13. Plaintiff needs a copy of the tape recordings because Raymond Connell, attorney for the E.R. Squibb & Sons, sent a "Pretrial Order" that Plaintiff received on December 23, 1985 Saturday 2:00 p.m. Mr Connell states that "Dr. Maxwell is not a party to this litigation". What does Mr. Connell mean? It was Dr. James Maxwell that prescribed the medication Progesterones for me from 1973 to 1983 for abnormal bleeding endometrial hyperplasia and to prevent cancer., Dr. Maxwell prescribed

Exhibit F.

Provera in 1971. Depo Provera, for about six months in 1972, and Squibb's product Delalutin (hydroxyprogesterone) for Plaintiff for 12 years from 1971 to 1983. It was for this reason that Plaintiff subpoenaed my medical records from Dr. Maxwell. Plaintiff objects to the Court's denial of the subpoenaed records.

The Requests for E.R. Squibb & Sons documents and the Subpoenaed medical records are a crucial part of my case and that the case is of Good Cause and of Interest to the General Public.

Therefore, because of the above stated reasons, Plaintiff requests that her Motion for copies of the tape recording taken at Pretrial Conference on December 17, 1985 be given to her so that she may have equal access to the Court and a fair trial and that justice be done. Plaintiff requests that her Objection to Motion to Dismiss, Objection to Denial of Supoena and Objection

to Denial of Request of Documents from E.R. Squibb on Delalutin and Progesterone be granted.

Dated 23 December 1985.

Nora J. McArdle
Plaintiff,
Pro Se With Protest
6802 Galley Road
Colorado Springs, CO 80915
(303) 596 3340

CERTIFICATE OF MAILING

I, hereby, certify that a true and correct copy of the foregoing "PLAINTIFF'S MOTION TO REQUEST A COPY OF TAPE RECORDING TAKEN AT THE PRETRIAL CONFERENCE ON DECEMBER 17, 1985" was mailed on this 27 day of December 1985, by depositing same in the U.S. Mail, postage prepaid, addressed to:

Raymond J. Connell
of Hall & Evans
717 Seventeenth Street, Suite 2900
Denver, Colorado 80202

Exhibit F.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLORADO

Civil Action No. 85-F-835

NORA J. McARDLE,

Plaintiff,

vs.

E. R. SQUIBB & SONS, INC.,

Defendant.

---

1. MOTION TO OBJECT TO E. R. SQUIBB & SONS, INC.'S RESPONSE TO PLAINTIFF'S FIRST REQUEST TO PRODUCE DOCUMENTS (PROGESTERONES AND DELALUTIN).

2. MOTION TO REQUEST E. R. SQUIBB & SONS, INC. FOR ABSTRACTS OF DOCUMENTS OR PROGESTERONE AND DELALUTIN.

COMES NOW THE PLAINTIFF, NORA J. MCARDLE, PRO SE, WITH PROTEST and respectfully request 1. MOTION TO OBJECT TO E. R. SQUIBB & SONS, INC.'S RESPONSE TO PLAIN-

TIFFS'S FIRST REQUEST TO PRODUCE DOCUMENTS (PROGESTERONE AND DELALUTIN). 2. MOTION TO REQUEST E. R. SQUIBB & SONS, INC. FOR ABSTRACT OF DOCUMENTS ON PROGESTERONE AND DELALUTIN.

DEFENDANT'S GENERAL OBJECTIONS TO PRODUCE DOCUMENTS ON DELALUTIN AND PROGESTERONE FOR THE PLAINTIFF. Defendant states:

"1. SQUIBB objects to these requests generally to the extent that they are based upon an assumption that Delalutin was or is sold or marketed directly to the public. Pursuant to the Federal Food, Drug and Cosmetic Act, 21 U.S.C. §1301, et seq., or marketed in accordance with the procedures outlined in said Act, which requires such drugs to be dispensed to the public by physician's prescription.

2. These Requests insofar as they ask for information with respect to Pro-

vera, Depo-Provera and Norplant, products not manufactured by this responding Defendant, are obviously overbroad, burdensome and misdirected."

PLAINTIFF'S RESPONSE TO DEFENDANT'S GENERAL OBJECTIONS.

1. Plaintiff objects to Squibb's General Objections because the issue is not the marketing procedure of Squibb's Delalutin (hydroxy-progesterone); the issue is whether Squibb did research on the safety of long term use of Delalutin and whether squibb did literature research on the safety of long term use of the other Progesterones.

2. The Progesterones are also of concern to the welfare of the General Public because the Progesterones have been suggested as the Contraceptive of the future, as a method for Population Control,

as a method for chemical castration and as a method to modify behavior.

PLAINTIFF'S REQUEST NO. 1

Request for all literature and research in English and Foreign countries on the uses and adverse effects of Delalutin (hydroxy progesterone), Provera, Depo-Provera (medroxyprogesterone), Norplant (levonogestrel) and other Progesterone.

DEFENDANT'S RESPONSE:

"Defendant SQUIBB objects to this request in that by use of the term "all literature and research" it is obviously overbroad and well beyond the scope of what would be potentially available to this responding Defendant. While this Defendants does manufacture one of the products mentioned in the request, it does not manufacture Provera, Depo-Provera, or Norplant and therefore could not respond

to same. Morever, a complete response to said request would be burdensome and oppressive. However, without waiving said objections, as ordered by the Court at the October 29, 1985, hearing, SQUIBB will make available to the Plaintiff its New Drug Application (NDA) for Delalutin, with voluminous documentation, at its New Brunswick, New Jersey facility during regular business hours at a date and time mutually convenient."

PLAINTIFF'S OBJECTION TO DEFENDANT'S RESPONSE TO PLAINTIFF'S REQUEST NO. 1

1. Plaintiff's request for "all literature and research" may be overbroad, so therefore Plaintiff requests abstracts of requested documents.

2. Plaintiff's request for documents about Provera, Depo-Provera, Norplant (add Delatestryl) and other Progesterones is

based on the fact that the Progesterones are a legal, ethical, medical, economical, political and social issue, and they are of interest to the Plaintiff and the welfare of the General Public.

3. The Court repeated Defendant's suggestions that I go to New Jersey to view requested documents, but as I have stated before, I do not have the time nor the money. Therefore, I suggest a compromise and request abstracts of all documents I have previously requested as they are necessary for presentation of my Complaint.

PLAINTIFF'S REQUEST NO. 2

Request all information on immune suppressant effect of all the Progesterones.

DEFENDANTS' RESPONSE:

"See Objection and response to Re-

quest No. 1."

PLAINTIFF'S OBJECTION TO DEFENDANTS' RESPONSE TO REQUEST NO. 2

1. Plaintiff's request for "all information" is overbroad and therefore the Plaintiff changes the request to abstracts on immune suppressant effect of Progesterone. (See Plaintiff's General Objection to Defendant's Response to Plaintiff's Request No. 1).

PLAINTIFF'S REQUEST NO. 3

Request all information and research on the estrogenic, anabolic, androgenic and carticord activity on all of the above Progesterones.

DEFENDANTS' RESPONSE

"See Objection and response to Request No. 1."

PLAINTIFF'S OBJECTION TO DEFENDANT'S RESPONSE TO PLAINTIFF'S REQUEST NO. 3.

Exhibit E

1. Plaintiff withdraws "all information" and instead requests abstracts of requested information.

PLAINTIFF'S REQUEST NO. 4

Request literature in studies on the prolonged use of Progesterone therapy on uterine, pituitary, ovarian, breast, adrenal and hepatic functions.

DEFENDANTS' RESPONSE

"See Objection and Response to Request No. 1."

PLAINTIFF'S OBJECTION TO DEFENDANT'S RESPONSE TO PLAINTIFF'S REQUEST NO. 4.

1. Request No. 4 is basic to the safety of long term use of Delalutin and other Progesterones. Plaintiff asks for abstract`s of requested documents.

PLAINTIFFS' REQUEST NO. 5

Request information on difference between synthetic and natural Progester-

one.

DEFENDANT'S RESPONSE:

"See Objection and response to Request No. 1."

PLAINTIFF'S OBJECTION TO DEFENDANTS' RESPONSE TO PLAINTIFF'S REQUEST NO. 5.

1. Plaintiff requests abstracts of difference between synthetic and natural Progesterone.

PLAINTIFF'S REQUEST NO. 6

Request listing and information of all litigation past and present successful and unsuccessful, of all the Progesterones including Delalutin, Provera, Depo-Provera, Norplant and other Progesterone products.

DEFENDANT'S RESPONSE:

"This Defendant has no information with respect to any litigation regarding Provera, Depo-Provera, or Norplant since

these are not manufactured by SQUIBB. With Respect to the request insofar as it inquires about Delalutin litigation, this Defendant objects on the basis that such information is irrelevant, immaterial, and not calculated to lead to the discovery of admissible evidence at trial."

PLAINTIFF'S OBJECTION TO DEFENDANTS' RESPONSE TO PLAINTIFF'S REQUEST NO. 6.

1. Plaintiff's request for information on litigation on Squibb's Delalutin is relevant, and calculated to lead to discovery of admissible evidence at trial. My complaint is a myocardial infarction (heart attack) caused by Delalutin and at issue is the safety of the long term use of Delalutin.

PLAINTIFF'S REQUEST NO. 7

Request listing of all legal and medical experts used in litigation and also

other experts who are knowledgeable in the field of contraceptives, hormones, steroids, Dalkon Shield, toxic shock syndrome and cancer and cardiovascular disease caused by hormones.

DEFENDANTS' RESPONSE

"Defendant objects to this obviously overbroad request in calling for "all legal and medical experts." The request is unintelligible in that it covers areas of "contraceptive hormones, steroids, Dalkon Shield, toxic shock, and cancer and cardiovascular disease (allegedly) caused by hormones." It would be impossible to respond to said Request since it is overbroad burdensome and oppressive. Moreover, it appears Plaintiff is attemtping to identify every aspect in virtually every pharmaceutical lawsuit in the Country."

PLAINTIFF'S OBJECT'ON TO DEFENDANTS' RES-

PONSE TO PLAINTIFF'S REQUEST NO. 7.

1. Plaintiff's request is based on her need to obtain legal and medical experts used in litigation and knowledgeable in fields of contraceptives, steroids, Dalkon Shield, and cancer and cardiovascular disease caused by hormone Progesterone.

NOW THEREFORE, PLAINTIFF REQUESTS A MOTION TO REQUEST E. R. SQUIBB & SONS, INC. FOR ABSTRACTS OF DOCUMENTS ON PROGESTERONE AND DELALUTIN.

Plaintiff's Reply to E. R. Squibb & Sons, Inc.'s First Request For Admission and Interrogatories to plaintiff (on Progesterone and Delalutin) was answered October 18, 1985. Plaintiff has responded to all outstanding Plan for Discovery, Interrogatories and Request for Documents by November 15, 1985, which was the deadline.

Exhibit E

Dated: November 27, 1985

NORA J. MCARDLE
PRO SE WITH PROTEST
6802 Galley Road
Colorado Springs, CO 80915
(303) 596-3340

CERTIFICATE OF MAILING

I certify that a true and correct copy of the Motion TO OBJECT TO E. R. SQUIBB & SONS, INC.'S RESPONSE TO PLAINTIFF'S FIRST REQUEST TO PRODUCE DOCUMENTS (PROGESTERONE AND DELALUTIN). AND MOTION TO REQUEST E. R. SQUIBB & SONS, INC. FOR ABSTRACTS OF DOCUMENTS ON PROGESTERONE AND DELALUTIN WAS PUT IN THE UNITED STATES MAIL POSTAGE PRE-PAID AND ADDRESSED TO KEVIN E. O'BRIEN of HALL & EVANS, 717 Seventeenth Street, Suite 2900, Denver, Colorado 80202, on November 27, 1985.

Exhibit E

CERTIFICATE OF SERVICE

I, Nora J. McArdle, Petitioner, Pro Se With Protest, hereby certify that I have served three true and corrected copies of "PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT AND APPENDIX", to all parties by placing in the United States Mail, postage prepaid on 10 day of September, 1987, addressed to:

RAYMOND J. CONNELL
Hall & Evans
1200 Seventeenth Street Suite 1700
Denver, Colorado 80202

Nora J. McArdle

NORA J. MCARDLE
Petitioner

CERTIFICATE OF SERVICE

I, Nora J. McArdle, Petitioner, Pro Se With Protest, hereby certify that I have served three true and corrected copies of PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT AND APPENDIX", to all parties by placing in the United States Mail, Postage prepaid on 13 day of August, 1987, addressed to:

RAYMOND J. CONNELL
HALL & EVANS
1200 SEVENTEENTH STREET, SUITE 1700
DENVER, CO 80202

NORA J. McARDLE
PETITIONER

CERTIFICATE OF SERVICE

I, Nora J. McArdle, Petitioner, Pro Se With Protest, hereby certify that I have served a true and correct copy of PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT AND APPENDIX", to all parties by placing in the United States Mail, postage prepaid on 15 day of July, 1987, addressed to:

Raymond J. Connell
Hall & Evans
1200 Seventeenth Street Suite 1700
Denver, Colorado 80202

Robert L. Hoecker
United States Court of Appeals
for the Tenth Circuit
C 404 United States Courthouse
Denver, Colorado 80294

NORA J. McARDLE
PETITIONER

APPENDIX

MARCH TERM - April 20, 1987

Before Honorable James K. Logan and Honorable John P. Moore, Circuit Judges, United States Court of Appeals, and Honorable Richard D. Rogers, District Judge, United States District Court for the District of Kansas*

NORA J. McARDLE,	)	
	)	
Plaintiff-Appellant	)	
	)	
v.	)	No. 86-1084
	)	
E. R. SQUIBB & SONS, INC.,	)	
	)	
a New Jersey corporation	)	
	)	
Defendant- Appellee.	)	

This matter comes on for consideration of plaintiff's motion for rehearing, which we construe as a motion to recall the mandate.

Upon consideration thereof, the motion is denied.

ROBERT L. HOECKER, CLERK

*The Honorable Richard D. Rogers, United States District Judge for the District of Kansas, sitting by designation.

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

NORA J. McARDLE	)	
	)	
Plaintiff-Appellant,	)	
	)	
v.	)	No. 86-1084
	)	(D.C. No.85
E.R SQUIBB & SONS, INC.,	)	F 835)
	)	(D. Colo.)
a New Jersey corporation,	)	
	)	
Defendants-Appellee.	)	

ORDER AND JUDGEMENT

Before LOGAN and MOORE, Circuit Judges, and ROGERS, District Judge.*

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*The Honorable Richard D, Rogers, United States District Judge for the District of Kansas, sitting by designation.

In accordance with 10th Cir. R. 9(e) and Fed. R. App. P. 34(a), this appeal came on for consideration on the briefs and record on appeal.

The judgement of the United States

District Court for the District of Colorado is AFFIRMED for the reasons set forth in its Order of Dismissal entered on December 24, 1985. See 10th Cir. R. 17(b).

The mandate shall issue forthwith.

ENTERED FOR THE COURT

PER CURIAM

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLORADO

Civil Action No. 85-F-835

NORA J. McARDLE,

Plaintiff

vs.

E. R. SQUIBB & SONS, INC.,

Defendant

ORDER OF DISMISSAL

Sherman G. Finesilver, Chief Judge

THIS MATTER is before the Court on a Motion to Dismiss filed by the defendant on December 18, 1985. Defendant seeks dismissal of this action, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure, for plaintiff's failure to comply with court orders. We have carefully reviewed the pleadings and orders in this action and we are of the view the motion should be GRANTED.

The defendant's motion sets forth in detail the history of the proceedings. We will summarize the court orders with which the plaintiff failed to comply. The Court entered a minute order October 17, 1985 directing the plaintiff to respond to the defendant's First Motion to Compel filed October 8, 1985. The plaintiff failed to respond. As a result of the motion to compel, the Court ordered plaintiff to seek legal counsel to assist her preparation of this rather complicated case.

Plaintiff failed to produce the requested discovery resulting in a second motion to compel filed by the defendants. Again the plaintiff was ordered to comply with all discovery requests and a deadline of December 17, 1985 was given. The minute order of November 27, 1985 granting the motion to compel also recommended the plaintiff retain counsel.

The plaintiff and counsel for the defendants were present for the pretrial conference held before Magistrate Donald Abram on December 17, 1985. Counsel for the defendants stated the plaintiff still had not produced the requested medical records nor had she fully answered interrogatories. The plaintiff admitted during this hearing that the records were in her possession. Magistrate Abram ordered the plaintiff to produce the requested information to the Colorado Springs office of Hall and Evans by 5:00 p.m. on that day. Magistrate Abram carefully explained the consequences of failure to comply with court orders. Again the documents were not produced nor were their interrogatories answered.

The parties were ordered by Magistrate Abram to submit a proposed pretrial order by December 20, 1985. If the par

ties could not agree on an order, individual proposed pretrial orders were to be submitted. Apparently the parties could not agree upon an order. The Defendant submitted a proposed pretrial order, however, the plaintiff failed to do so.

Finally, on December 20, 1985, plaintiff was ordered to fully and completely comply with all discovery requests by December 23, 1985. The plaintiff failed to comply with this order as well.

It appears to the Court that the plaintiff is not fully prepared to prosecute this action at this time. The plaintiff's repeated action and continuous failure to comply with court orders leads the Court to the conclusion the case should be dismissed at this time. At such time as the plaintiff is more prepared to litigate these issues, within the applicable statute of limitations, the action may be re

filed.

ACCORDINGLY, it is hereby ordered that the Motion to Dismiss filed by the defendant be GRANTED. The case is DISMISSED WITHOUT PREJUDICE.

DATED this 24 day of December, 1985, at Denver, Colorado.

BY THE COURT

Sherman C. Finesilver,
Chief Judge
United States District Court

RULE 41

ISSUANCE OF MANDATE: STAY OF MANDATE

41.2. Effect of Petition for rehearing. A timely filed petition for rehearing will stay the mandate until disposition of the petition, unless otherwise ordered by the court. If the court has ordered the mandate to issue forthwith to minimize delay in the resolution of the appeal, thus forestalling the filing of a timely petition for rehearing, the court will treat a petition for rehearing received after the mandate has issued as a motion to recall the mandate for the purpose of filing a petition for rehearing out of time. If the petition is granted, the mandate will be recalled: otherwise, the motion will be denied.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLORADO

CIVIL ACTION No. 85-F-835

NORA J. McARDLE

Plaintiff,

vs.

E. R. SQUIBB & SONS, INC.,

DEFENDANTS.

---

1. MOTION FOR AN EXTENSION OF TIME TO COMPLY WITH COURT ORDERS GIVEN THIS MORNING.
2. MOTION TO REQUEST IF THIS COURT HAS JURISDICTION IN THIS CASE.

COMES, NOW, PLAINTIFF, NORA J. McARDLE, PRO SE WITH PROTEST, and request the Court for a 1, Motion For an Extension of Time to Comply with Court Orders Given this Morning.

1. Plaintiff had a Pretrial Confer-

ence at 8:30 a.m., December 17, 1985, in Judge Abram's Court,Plaintiff had Subpoenaed her Medical Records from Penrose, Dr. David Blanchett, and Dr. James Maxwell. The Court refused to permit my subpoena Medical records to be admitted to a Court of Law.

2. Plaintiff was instructed to turn in Medical Records and other requested documents to Defendants' attorney by 5:00 P.M. today, December 17, 1985. Plaintiff suggested that perhaps she could turn in records at Hall and Evans' offices in Colorado Springs.

3. Plaintiff was also ordered to complete remaining Interrogatories without aid of legal counsel by 5:00 P.M. today, December 17, 1985.

4. Plaintiff was ordered to turn in Joint Pretrial order in about three days,'

on December 20, 1985.

5. Plaintiff went E. R. Squibb & Sons' Defendants' attorney, Dawn Pyshnik to draw up Pretrial Orders due 20 December 1985. Two hours of Conference and attorney, Dawn Pyshnik decided it would be better if both partied drew up separate Pretrial Orders.

6. It is physically impossible and unreal for Plaintiff to return to Colorado Springs today and comply with all Orders before 5:00 P.M. today December 17, 1985, and I object.

2. Motion to Request if this Court has Jurisdiction in this case.

1. Plaintiff has raised the issue of Jurisdiction because although Progesterone (Delalutin) was responsible for Plaintiff's heart attack; the Progesterones are also of concern to the General Welfare,

Progesterones are a social, political, economical, medical and ethical issue.

2. Progesterone have been suggested as the Contraceptive of the Future (Norplant DepoProvera), for Population Control (Norplant and Depo-Provera) for Chemical Castration (Depo-Provera). for PMS-premenstrual syndrome (Progesterones) and for behavior modification.

3. Further research on the safety of long term use of progesterones is required.

Therefore, Plaintiff request that her two Motions be granted. Plaintiff is without legal counsel and since this is a Emergency situation Plaintiff hopes Court will accept my hand written Motions.

Dated December 17, 1985

NORA J. McARDLE
PLAINTIFF

Exhibit A

PRO SE WITH PROTEST
6802 GALLEY ROAD
COLORADO SPRINGS, CO 80915
303 596 3340

CERTIFICATE OF MAILING

I, hereby certify that I have mailed a true and correct copy of the foregoing:

1. MOTION FOR AN EXTENSION OF TIME TO COMPLY WITH Court's ORDERS GIVEN THIS MORNING.

2. MOTION TO REQUEST IF THIS COURT HAS JURISDICTION IN THIS CASE" and documents were put in United States Mail, Postage prepaid and addressed to:

Dated 17 December, 1985

RAYMOND J. CONNELL

KEVIN E. O'BRIEN

717 SEVENTEENTH STREET, SUITE 2900

DENVER, COLORADO 80202

Exhibit A

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLORADO

CIVIL ACTION NO. 85-F-835

NORA J. McARDLE,

Plaintiff,

vs.

E. R. SQUIBB & SONS, INC.,

Defendants.

PLAINTIFF'S PROPOSED STIPULATED PLAN AND SCHEDULE FOR DISCOVERY

COMES NOW, the Plaintiff, Nora J. McArdle, PRO SE With Protest, and pursuant to the August 19, 1985, ORDER AND NOTICE OF SETTINGS, herein submits the Plaintiff's Stipulated Plan and Schedule for Discovery.

Plaintiff's Proposed Stipulated Plan and Schedule for Discovery:

1. On October 29, 1985, the Discovery and Scheduling Conference was held in

United States District Court. Nora J. McArdle, Plaintiff, represented herself Pro Se With Protest. Kevin E. O'Brien and Raymond J. Connell represented E. R. Squibb & Sons, Inc., the Defendants.

2. Statement of Issue:

a. Plaintiff had a heart attack (myocardial infarction) and sustained considerable heart muscle damage. Plaintiff's cardiac enzyme for CPK peaked at 1788 on August 7, 1980 (normal range is 21-215). The Cardiac isoenzyme that is diagnostic for acute myocardial infarction is CPK-MB and it was 976 (normal range is 5).

b. Plaintiff's medications in the last 15 years were the progesterones: Provera, DepoProvera and Delalutin (hydroxy-progesterone) and thyroid grains one, and were given to Plaintiff for abnormal

bleeding, endometrial hyperplasia and to prevent cancer. Delalutin was prescribed from 1973 to 1983.

c. The progesterones have been associated with cardiovascular complications, cerebrovascular accidents and cancer. Plaintiff contends that the Delalutin (hydroxy-progesterone) was the direct and indirect cause of the myocardial infarction and the ensuing heart and physical damage after effects.

d. The progesterones have been suggested as the contraceptive of the future, and it is therefore a social, political, economical, medical and social issue. The safety and long term effects of the progesterones on the Plaintiff and the general public need to be determined and further research and investigations are required. The safety and long term ef-

fects of the progesterones are of concern to the welfare of the general public.

3. Schedule:

a. On October 14, 1985, I telephoned Defendants' Attorney, Kevin O'Brien, and he returned my call about 2:00 P.M. I asked him if a meeting was necessary as the Court has stated that "Seven (7) days prior to the Discovery and Scheduling Conference (October 29, 1985, 8:30 A.M.) Counsel are to file an ORDER RE: JOINT STIPULATED Plan and Schedule for Discovery which shall include the signature of counsel and Pro se litigants and make a provision for approval by the Court." Exhibit A (5 Pages). Kevin O'Brien said he would send me a preschedule and I could sign it. The defendants' Proposed ORDER RE: Joint Stipulated Plan and Schedule FOR DISCOVERY was received by Plaintiff on October 21,

1985, and was not representative of the situation nor did it reflect Plaintiff's views. (Exhibit B)

On October 29, 1985, at the Discovery Scheduling Conference in Denver, it was my understanding that Plaintiff should answer E. R. Squibb & Sons First Set of Interrogatories by November 5, 1985. I did send the Interrogatories registered mail and special delivery on November 4, 1985. It was my understanding that all other outstanding requests would be answered by November 15, 1985. Plaintiff has requested transcript of the conference.

After the Conference for Discovery and Scheduling, I spoke with the Defendants' Attorney Kevin O'Brien, in the hall, for less than 10 minutes.

b. Motion should be permitted to be filed within (5) days of March 3, 1986,

Exhibit D

trailing calendar.

c. Since Plaintiff and Defendants' attorneys were unable to file a Joint Plan and Schedule for Discovery, the cutoff date of Discovery should be delayed. To prepare her case and answer Defendants' questions, Plaintiff has need of requested documents from E. R. Squibb & Sons. Plaintiff continues to try and obtain legal counsel.

e. Defendants requested and Plaintiff replied to:

1. E. R. Squibb & Sons, Inc. First Request for Admission and Interrogatories to Plaintiff (Delalutin-hydroxy-progesterone). Answered October 18, 1985.

2. E. R. Squibb & Sons, First Set of Interrogatories to Plaintiff (14 pages). Answered November 4, 1985.

f. 1. Defendants request for Pro-

duction of Documents - will attempt to answer this week - E. R. Squibb & Sons First Request for Production of Documents from Plaintiff. November 1985.

2. Reference the Authorization to Release Medical Information. I have explained to the Defendants' Attorney, Kevin O'Brien, that I would like my medical record to be legal evidence in a Court of Law. My records have been altered and some are missing. I, therefore, will subpoena my medical records as soon as possible.

3. Request Court response to Plaintiff's Motion file October 24, 1985. Plaintiff requests clarification as to whether Plaintiff is compelled to answer Defendant's Interrogatories and other requests without benefit of legal counsel. Exhibit A.

Exhibit D

4. Plaintiff has requested production of Documents about the progesterones from E. R. Squibb & Sons. Plaintiff has been told she can go to Princeton, New Jersey, to view these documents. I have told Kevin O'Brien that I do not have the time nor the money to travel to New Jersey. Perhaps an abstract of requested documents could be sent. (Exhibit C)

5. Plaintiff will make an Amendment to Complaint to clarify claims with aid of legal counsel.

6. Plaintiff continues to search for legal counsel who could better respond to these questions.

7. Length of trial will be determined at a later date.

8. Plaintiff's Proposed Stipulated Plan and Schedule for Discovery may be altered or amended whenever justice so

requires. It is requested that an extension of time be granted so that a fair trial and justice be done.

EXHIBITS: 11 Pages

Exhibit A: Motion for Permission to Request the Judge That Plaintiff objects to Defendants' Motion and Request that the Judge Rescend Defendants', E. R. Squibb & Sons, First Motion to Compel and Request an Extension of Time. II Motion for Permission to Request the Judge for an Extension of Time. Dated October 24, 1985 (5 pages).

Exhibit B: Proposed ORDER RE: Joint Stipulated Plan and Schedule for Discovery. Dated October 18, 1985 (4 pages).

Exhibit C: Response to Defendants Request for Documents and First Request for

Production of Documents from Defendants. Dated August 30, 1985 (2 pages). /15 November 1985.

Nora J. McArdle
Plaintiff, Pro Se With Protest
6802 Galley Road
Colorado Springs, CO 80915
(303) 596-3340

10. Approval of the Court.

_____ _____
Judge

{ All of the above numbered and lettered paragraphs correspond with questions on routine forms. }

Exhibit D

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLORADO

CIVIL ACTION NO. 85-F-835

NORA J. McARDLE,

Plaintiff,

vs.

E. R. SQUIBB & SONS, INC.

Defendants.

MOTION FOR REQUEST FOR COURT ORDER OF RECORDS

COME NOW, the Plaintiff, Nora J. McArdle, Pro se With Protest, and requests a Court Order for my medical records going back to 1947. Due to an unusual situation, I am without legal counsel and therefore, unable to obtain complete and accurate medical records.

I hereby request a Court Order of all my medical records going back to 1947.

Exhibit B

This should include complete hospital charts including but not limited to, medical records, patient information sheets, hospital admitting sheets, medical records, interpretations of diagnostic tests, medication sheets, consultations, transcripts, hospital summaries and admitting records, admitting history and physical, case records, discharge summary, medical records summaries, operative reports, anesthesia records, recovery room records, emergency room records, ambulance trip sheets, out-patient clinic records, consultations, x-ray reports, x-rays, reports concerning any diagnostic, pathological and laboratory tests or interpretations thereof, lab slips, requests for consultation, intake and output records, ICU records, physicians' orders and progress notes, nurses' notes, therapy records,

patient evaluation forms and all other hospital notes, charts, documents and memoranda whatever pertaining to any in-patient or out-patient hospitalizations for evaluation or treatment.

My request for records going back to 1947 is because 1947 was the year that progesterone was first prescribed for me, and it is necessary to have evidence of why and when progesterone was prescribed.

Please request all codes, computer codes and unintelligible notes be in understandable language. The codes used by Penrose Hospital on their Admission and Discharge Records should be translated into lay term English.

If the court is unable to grant my request that the court obtain all of my medical records going back to 1947, would the court give me information as to how I

may subpoena all my medical records so that they be used as legal evidence in a court of law. Unless I can obtain complete and accurate records, I cannot have a fair hearing or trial and justice will not be served.

I have persisted in my search for justice, a fair trial, legal counsel and an investigation because my heart attack was a direct and proximate result of the use of Delalutin (Hydroxy progestern). The long term use of the progesterones-Provera, DepoProvera, Delalutin and others are a political, economical, social, ethical and medical issue affecting not only myself but would also be of concern to the general public.

I would also request a Court Order for Records that may be in or were in Medical and Insurance computers and other

computers. If the court cannot grant a Court Order for the medical records, I request an extension of time so that I may subpoena all my medical records so that they may be used as legal evidence in a court of law.

NORA J. McARDLE
Pro Se with Protest
Plaintiff
6802 Galley Road
Colorado Springs, Colorado 80915
(303) 596-3340

SWORN TO AND SUBSCRIBED BEFORE ME THIS ___ DAY OF _____,19___

NOTARY PUBLIC

MY COMMISSION EXPIRES:_____

CERTIFICATE OF MAILING

I hereby certify that I served a true and correct copy of "MOTION FOR REQUEST FOR COURT ORDER OF RECORDS" on all parties herein by placing in the United States

Mail, postage prepaid, the 30 day of August, 1985 addressed to:

Hall & Evans
717 Seventeenth Street, Suite 2900
Denver, Colorado 80202

Exhibit B